an assignment for the benefit of his creditors and nine days later a petition in bankruptcy was filed against him. Afterwards the assignee sold the property to B., who had knowledge of the situation. The petitioning creditors presented another petition praying that B. account to the referee for the goods he bought from the assignee. The district court decreed that B. had no title superior to that of the bankrupt estate, and therefore he should account. On appeal, it was held that the district court, as a court of bankruptcy, had jurisdiction on the theory that B. had no title superior to that of the bankrupt estate. But the supreme court laid stress on the fact that B. consented to the form of the proceeding.

BILLS AND NOTES—NONNEGOTIABLE NOTES—LIABILITY OF INDORSER.—A note, nonnegotiable by reason of a stipulation that the payee should look to certain mortgage security for its payment, was executed and delivered to the defendant by whom it was indorsed to the plaintiff. In an action against the defendant as indorser, it was *held* that the indorser of a nonnegotiable note assumes an obligation to his indorsee or any subsequent holder to pay the amount due as provided in the instrument, according to its tenor (Code Supp. 1902, § 3060—a66), and can be held to no greater liability than that of the maker. *Allison* v. *Hollembeak* (1908), — Ia. —, 114 N. W. Rep. 1059.

In Iowa, prior to the passage of the negotiable instruments act it was held that the indorser of a nonnegotiable instrument became liable to his indorsee, or any subseqent holder, as a maker of the instrument indorsed, no demand or notice being necessary to fix his liability, which was treated as absolute, and not conditional. *Wilson* v. *Ralph,* 3 Iowa 450; *Hall* v. *Monahan,* 6 Iowa 216, 71 Am. Dec. 404; *Billingham* v. *Bryan,* 10 Iowa 317; *Lynch* v. *Mead,* 99 Iowa 66. For a fuller discussion of this subject see 6 MICH. LAW REV. 502.

BONDS—JOINT STOCK ASSOCIATION—NEGOTIABILITY.—Bonds of the Adams Express company, issued in its association name, under its common seal, by its authorized officers and payable to bearer, stipulated that no shareholder "shall be personally liable as partner or otherwise," and that "the same shall be payable solely out of the assets" of the association. In an action of replevin to recover from an innocent purchaser for value, certain coupons originally attached to one of the above bonds it was *held* that the bond was negotiable and plaintiff could not recover. *Hibbs* v. *Brown et al.* (1907), — N. Y. —, 82 N. E. Rep. 1108.

The stockholders of a joint-stock company are personally liable except in so far as such liability may be limited by statute, for the debts of the company precisely as general partners are liable for the debts of the firm. *Moore* v. *Brink,* 4 Hun (N. Y.) 402; *Wells* v. *Gates,* 18 Barb. (N. Y.) 554; *Skinner* v. *Dayton et al.,* 19 Johns. (N. Y.) 513; *Bodwell* v. *Eastman,* 106 Mass. 525; *Raymond* v. *Colton,* 104 Fed. 219. The majority of the court disregard the above principle and base their decision upon the ground that the association contracted as a quasi-corporate entity. Such a conception if once accepted leads readily to the conclusion that the limitation in the bond did not affect its negotiability under the rule that a negotiable instrument must pledge the

general credit of the maker. *Munger* v. *Shannon,* 61 N. Y. 251; *Brill* v. *Tuttle,* 81 N. Y. 454. If the obligation is primarily that of the association recognized as an artificial entity, a restriction upon the liability of the shareholder is in no wise a limitation upon its general credit. While joint-stock companies possess many of the characteristics of corporations, *Youngstown Coke Co.* v. *Andrews Bros. Co.,* 79 Fed. 669; *Waterbury* v. *Merchants' Union Express Co.,* 50 Barb. (N. Y.) 157; *Oak Ridge Coal Co.* v. *Rogers,* 108 Pa. St. 147, and for some purposes have been so considered, *State* v. *Adams Express Co.,* 66 Minn. 271; *Express Co.* v. *State,* 55 Ohio St. 69; *Matter of Jones,* 172 N. Y. 575; *Platt* v. *Wemple,* 117 N. Y. 136, none of the decisions seem to have so far recognized their artificial existence as to relieve the members from their primary liability for the debts of the company. The minority of the court recognize the negotiability of the bond by declaring the limitation void; WERNER, J., basing his decision upon the ground that it is repugnant to the terms, tenor and purpose of the bond. In view of the statute (Code Civ. Proc. § 1919), which provides that the association cannot be sued in its business name, and the officers which represent it can only be sued upon such obligations as are enforcible against the shareholders, it seems that the minority holding is the more logical.

CARRIERS—FREE TRANSPORTATION AS A PENALTY.—Plaintiff, being about to board defendant's train, pointed out his baggage to the conductor and brakeman, who placed it in the baggage car, and when his ticket was demanded, he refused to surrender it until given a check for his baggage. He was ejected, receiving injuries for which he recovered one thousand dollars damages. A statute provides that for refusal by the carrier to give a baggage-check when requested, the passenger might recover a penalty of twenty dollars in an action for damages and that if no fare had been paid none should be collected and if paid that it must be returned. *Held,* that the liability to carry free of charge upon refusal to give a baggage-check was as much a part of the penalty as the cash penalty prescribed therein. *Tarr* v. *Oregon Short Line R. Co.* (1907), — Idaho —, 93 Pac. Rep. 957.

In *Haskins* v. *Dern,* 19 Utah 101, a penalty is defined as a punishment imposed by law or by contract for doing or failing to do something that it was the duty of the party to do. If the liability to give free transportation under the circumstances stated were a part of the penalty it would seem that the plaintiff must recover it in the action, authorized by statute for recovering the remainder—the twenty dollars, but if the check is refused, one part of the penalty may be determined and exacted at once by the passenger without judicial proceeding, while the remaining part must await the determination of an action for damages. In the *Railroad Commission Cases,* 116 U. S. 307, it was held that under pretense of regulating fares and rates, the state cannot compel a railroad to carry passengers or property without reward nor do that which amounts to taking private property without due process of law. If deprivation of the right to charge reasonable rates takes place in the absence of investigation by judicial machinery, there is, in effect, a taking of property without due process of law. *Chicago, Milwaukee and St. Paul*